THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on :12.02.2007

WP(C) No.1066/2007

R. P. BOHOT ...Petitioner

- versus -

GARRISON ENGINEER (NORTH) ...Respondent

Advocates who appeared in this case:
For the Petitioner : Mr Venkat Subramaniam T. R.
For the Respondent : Mr Ashish Kumar

CORAM:-
HON'BLE MR JUSTICE BADAR DURREZ AHMED

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether the judgment should be reported in Digest?

BADAR DURREZ AHMED, J (ORAL)

1. The petitioner, who is a civilian employee in the defence services, has been served with a notice dated 25.11.2006 carrying the caption "vacation of married accommodation". The petitioner is impugning this notice. The notice has reference to the Movement Order No. 1100/NB/81/EIA dated 09.09.2006. It informs the petitioner that since he was posted out of Garrison Engineer Central to Garrison Engineer Dehu Road, Pune, he has been declared as an unauthorized

occupant of the said accommodation from the date of the move. By the said notice, the petitioner has been asked to vacate the said accommodation immediately otherwise action would be taken against him under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

2. The petitioner seeks a writ and/or direction quashing the impugned letter dated 25.11.2006 and permitting the petitioner to retain the accommodation in question till 31.07.2007. It is submitted on behalf of the petitioner that his children are students of schools and colleges. The petitioner has stated in paragraph 9 of the petition that his first child is studying for the IInd Year B.A examination to be conducted by the Delhi University. The second child is studying in the Ist Year of the Bachelor of Arts Course whereas the third child is studying in Class XII and the fourth child is studying in Class IX. According to him, the children, who are studying in colleges, would be continuing their academic year right up to the end of May, 2007 whereas the academic year of the children, who are studying in schools, would end sometime in March/April, 2007. It is in this context, that the request for permitting the petitioner to retain the accommodation till 31.07.2007, was made.

3. The learned counsel for the respondent has taken instructions and has placed on record the relevant rules applicable to the petitioner with regard to surrender of accommodation on the issuance of the Movement Order. The learned counsel appearing on behalf of the respondent has placed on record a gazetted copy of the Allotment of Residences (Defence Pool Accommodation for Civilians in Defence Services) Rules, 1978. Rule 8(2) of the said Rules prescribes that a residence allotted to an officer, subject to sub-rule (3), may be retained on the happening of any of the events specified in column No.1 of the table given therein, for the period specified in the corresponding entry in column No.2 thereof, provided that the residence is required for the bona fide use of the officer. The relevant entry in the table is at serial No. (xiv). The said entry reads as under:-

"(xiv) Transfer during the middle the academic year of their children.	Upto-six months beyond the permissible period of 2 months or till the end of the School or college academic year of their children, *whichever is earlier, on payment of double the assessed rent."*

A reading of the aforesaid entry indicates that if the transfer takes place in the middle of the academic year of the children of the officer concerned, then he or she is permitted to retain the accommodation up to six months beyond the

permissible period of two months or till the end of the school or college academic year of his children, whichever is earlier, on payment of double the assessed rent. The implication of this rule is that such a person could retain the accommodation up to six months or till the end of the school/college academic year, whichever is earlier. In this case, the eight months would expire at the end of May, 2007 inasmuch as he was asked to move in September, 2006. Incidentally, the college academic year of two of his children would also end in May, 2007. Therefore, applying the said rule, it is clear that the petitioner cannot be treated as an unauthorized occupant as indicated in the impugned letter and his authority to continue in occupation would last till the end of May, 2007. Till such time, the petitioner cannot be regarded as an unauthorized occupant within the meaning ascribed to this expression under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971. The impugned notice, therefore, is liable to be set aside. However, the petitioner is required to abide by the said rule 8(2) and he is required to vacate the premises at the end of the month of May, 2007. In the meanwhile, he is also required to pay double the assessed rent, which the counsel for the petitioner has indicated, the petitioner is willing to pay.

4. This writ petition is accordingly disposed of. The impugned notice dated 25.11.2006 stands quashed. The petitioner shall vacate the premises on

01.06.2007 and he shall pay double the assessed rent as per the aforesaid rule. No costs.

BADAR DURREZ AHMED
(JUDGE)

February 12, 2007
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